

Insights

Governor DeSantis Extends Eviction and Foreclosure Moratorium until September 1

Article

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On July 29, 2020, Florida Governor Ron DeSantis signed Executive Order 20-180 that extended (for a fourth time) his previous executive order which effectively put a moratorium in place on mortgage foreclosures and residential tenant evictions through September 1, 2020.

The new order also significantly amended the previous order in following ways:

1. Mortgage Foreclosure.

Previously. The previous executive order suspended and tolled *all Florida statutes that allowed lenders to foreclose mortgages*.

Now. Foreclosure protection is only afforded to single-family mortgagors adversely affected by COVID-19. Further, the new executive order only suspends and tolls foreclosure statutes providing for final action at the conclusion of a foreclosure proceeding.

In other words, mortgagees can now commence mortgage foreclosure proceedings against all mortgagors (subject to any applicable federal restrictions), and such mortgagees may proceed toward a final judgment unless the mortgagor is a single-family mortgagor who has been adversely affected by COVID-19.

2. Residential Tenant Evictions.

Previously. The previous executive order suspended and tolled all Florida statutes that provided a cause of action to evict residential tenants for the non-payment of rent due to the COVID-19 emergency, although landlords were permitted to pursue residential evictions due to non-monetary defaults as well as commercial evictions (in most Florida counties).

Now. The new executive order limits the application of the previous order by suspending and tolling only the Florida statutes that provide for final action at the conclusion of a residential eviction in cases where the

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residential tenant failed to pay rent because the tenant was adversely affected by COVID-19.

In other words, landlords can now commence residential eviction proceedings due to the non-payment of rent but cannot seek a final judgment if such residential tenant has been adversely affected by COVID-19.

Importantly, the above suspensions and tolls of Florida statutes apply only when the delinquent payment is due to a person being adversely affected by COVID-19. The new executive order provides that a person who is adversely affected by COVID-19 is defined as a person who has experienced a loss of employment, diminished wages or business income, or other monetary loss realized during the Florida State of Emergency directly impacting the person's ability to make mortgage or rent payments. Furthermore, once a person is no longer adversely affected by COVID-19, the current executive order provides no protection, and any tolled payments are due at such time.

At the federal level, the moratorium placed on certain evictions and foreclosures expired on July 25. However, the CARES Act required landlords to issue a 30-day notice to vacate after the expiration of the eviction protection prior to evicting a tenant; thus, the eviction moratorium is effectively in place until at least August 24 (unless the moratorium is further extended in the next relief bill).

Please contact a Lowndes attorney with any questions on whether, and how, a tenant can be evicted or a mortgage foreclosed.